

Phil 108, Thursday, February 13, 2014
Quinn on Doing vs. Allowing

The Doctrine of Doing and Allowing: In some cases, causing harm in way X to produce some good is permissible, whereas causing the same harm in way Y to produce the same good is impermissible, because X involves only “negative agency,” whereas Y involves “positive agency.”

Rescue I: Save five people in one place, rather than one in another place. The harm comes to the one through our “negative agency,” what we “allow.”

Rescue II: Save five by running over one. The harm comes to one through our “positive agency,” what we “do.”

Qualifications to the Doctrine of Doing and Allowing:

1. Does not imply an absolute prohibition on causing harm through positive agency. If the good produced is great enough, it may be permissible.

2. There are other relevant principles. There are special permissions to harm (e.g., competition, punishment), and special duties to prevent harm (e.g., roles, promises, harms caused by one’s past agency).

3. Cases in which harm through positive agency is less objectionable:

- When the victim is responsible for his plight.
- When the victim is harmed by positive agency only because of some unusual liability to harm (such as dying from fright if someone yells).
- Construction projects (and similar activities). “We are clearly permitted to help initiate such projects”—positive agency—“even though we know that in their course some deaths or injuries are practically inevitable.” Why? “The actual harm will generally have been preventable, and its occurrence will be much more directly traceable to the wrongful agency of persons more immediately concerned.”

What is the difference between “positive” and “negative” agency?

1. A causal distinction: Positive agency *causes* its effects, whereas negative agency does not cause its effects. This relies on a controversial theory of causality. For the sake of argument, grant a capacious conception of causality, according to which something causes an event if it *explains why* the event took place.

2. Bennett’s distinction: Something is caused by *negative* agency when it is caused by a *less specific* fact about agency: e.g., moving in one of a *wide range* of ways. Something is caused by *positive* agency when it is caused by a *more specific* fact about agency: e.g., moving in some *particular* way.

- Classifies some negative agency as positive. Suppose one stays put to hold a net to save five, instead of moving to hold a net to save one. The harm to the one is caused by a specific fact about agency—staying right here—but by negative agency, like Rescue I.
- Classifies some positive agency as negative. Suppose that any movement will trigger an

explosion that kills one. One leaves to save five. The harm to the one is caused by an unspecified fact about agency—moving in any way at all—but by positive agency, like Rescue II.

3. Foot's distinction: Positive agency involves *initiating* or *perpetuating* a harmful process, whereas negative agency involves only *allowing* a harmful process to continue.

- Hitherto, I have fired my old neighbor's furnace each morning, but I fail to do so one day in order to save five. He dies of cold. This seems negative agency, like Rescue I. But I am not *allowing* a process to continue that will result in his death. (I am instead failing to initiate a process that will keep him alive.)
- What is the difference between perpetuating a process and allowing it to continue? Doesn't this rely on a prior distinction between action and inaction? So why not...

4. The simple distinction: Positive agency causes harm through *action*, what the agent did, whereas negative agency causes harm through *inaction*, what the agent did not do but might have done.

Problem: Cases in which we, through inaction, fail to control the harmful *action of objects*.

Rescue III: The train is on automatic pilot on its way to save five. You do not stop it to prevent the train from running over one. This seems positive agency, like Rescue II, but it is *inaction*.

Rescue IV: At the back of the train, five wounded. You set it on automatic pilot and go to help them. Then you learn that a man is trapped ahead on the track. You stay with them, instead of returning to the cabin to save the one. This seems negative agency, like Rescue I.

If both are cases of inaction, what is the difference?

- In III, you *intend* that the train pass over the spot, as a *means* to your end of saving the five.
- In IV, you do *not* intend this; it is not a means to your end of saving the five. You would be glad if something stopped the train.
- This relies on *a* distinction between intending and foreseeing.
- But it is *not* the *same* distinction used by the Doctrine of Double Effect. Even in III, you do not intend to *harm* the one as a means to your end. Your intended means is simply that the train pass over the spot. You would be glad if the one freed himself and got away. (Quinn will say more about the DDE in his next paper.)

5. Quinn's distinction:

Harm is caused by *positive* agency if what most directly explains the harm is:

- (i) the agent's action, or
- (ii) the action of objects intended by the agent, whether caused by the agent's action or inaction.

Harm is caused by *negative* agency if what most directly explains the harm is the

- (i) agent's inaction, and

- (ii) not the action of any objects intended by the agent, whether caused by the agent's action or inaction.

Question: Why does harm caused by *actions* of withdrawing aid (as when you stop the train in III, or leave the one to save the five in I) count as harm caused by *negative agency*? Perhaps (although Quinn doesn't quite say this at p. 303) because what *most directly* explains the harm is an *inaction* (*not* saving the five in III, or *not* saving the one in I). The action explains the harm *only* by explaining why this inaction occurred.

Question: What does this imply for Bystander?

- *Thomson:* The choice in Bystander is between letting the five die (negative agency) and killing the one (positive agency). So Foot's analysis of Trolley—that is a choice between positive agency and positive agency—does not work for Bystander.
- *Quinn:* Foot's analysis is correct, since “allowing” the train to run over the five is *also* positive agency.

What is the rationale for the Doctrine of Doing and Allowing?

Foot's conjecture: (General) *negative rights*, against harms by positive agency, are harder to override than (general) *positive rights*, to aid (i.e., against harms by negative agency). (Why “general”? Recall qualification 2 above.)

Why is Foot's conjecture true? Consider the alternatives:

1. Why can't positive rights be harder to override than negative rights?
 - Absurd: would permit us to run over two in order to save one.
 - Incoherent
2. Why can't negative rights be no harder to override than positive rights?
 - Then whether we may run over the one depends only on whether we would do more good.
 - And this seems to deny that the one's body, life, mind is really *his*.
 - By analogy, if others can use your “property” whenever it is more useful to them than to you, then it isn't really your property. It is everyone's, or no one's.
 - “If we may rightly injure or kill him whenever others stand to gain more than he stands to lose, ... then surely his body (one might say his person) is not in any interesting moral sense *his*. It seems rather to belong to the human community, to be dealt with according to its best overall interests.”
 - “A person is constituted by his body and mind... For that very reason, it is fitting that he have primary say over what may be done to them—not because such an arrangement best promotes overall human welfare, but because any arrangement that denied him that say would be a grave indignity. In giving him this authority, morality recognizes his existence as an individual with ends of his own—an independent being.... Were morality to withhold it, were it to allow us to kill or injure him whenever that would be collectively best, it would picture him not as a being in his own right but as a cell in the collective whole.”
 - “None of this, of course, denies the legitimate force of positive rights. They too are

essential to the status we want as persons who matter, and they must be satisfied when it is morally possible to do so. But negative rights, for the reasons I have been giving, define the terms of moral possibility. Their precedence is essential to the moral fact of our lives, minds, and bodies really being ours.”

Review Questions:

1. How does Quinn try to vindicate Foot’s analysis of Bystander?
2. Why, according to Quinn, would it be “incoherent” for morality to make positive rights harder to override than negative rights, so that we are permitted to kill two to save one? That is, why would we still end up with the conclusion that we are *not* permitted to kill two to save one?